

Message Text

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FM AMEMBASSY SUVA

TO SECSTATE WASHDC IMMEDIATE 6629

UNCLAS SECTION 1 OF 7 SUVA 1317

ATTN: OES/OFA

E.O. 11652: N/A

TAGS: PLOS, PORG, EFIS, FJ, XP

SUBJECT: SUVA MEETING ON SOUTH PACIFIC REGIONAL FISHERIES AGENCY

REF: STATE 258434

AS REQUESTED IN REFTEL, FOLLOWING IS TEXT OF DRAFT CONVENTION FOR THE MANAGEMENT OF THE LIVING RESOURCES IN THE SOUTH PACIFIC AND THE ESTABLISHMENT OF THE SOUTH PACIFIC REGIONAL FISHERIES AGENCY. TEXT WAS POUCHED TO EA/ANP OCTOBER 28, 1977.

QUOTE:

PREAMBLE

THE GOVERNMENTS PARTIES TO THIS CONVENTION, CNSIDERING THEIR MUTUAL INTEREST AS COASTAL STATES IN THE LIVING RESOURCES OF THE SOUTH PACIFIC AND DESIRING TO COOPERATE IN THE MANAGEMENT AND DEVELOPMENT F THESE RESOURCES, THE CONTROL OF THEIR EX-
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PLOITATION AND THE COLLECTION OF INFORMATION FOR THESE PURPOSES, HAVE AGREED AS FOLLOWS:

ARTICLE I

THE OBJECTIVES OF THIS CONVENTION ARE TO ACHIEVE EFFECTIVE REGIONAL COOPERATION IN THE CONSERVATION, THE DEVELOPMENT,

THE MANAGEMENT, AND THE CONTROL OF EXPLORATION AND EXPLOITATION OF THE LIVING RESOURCES OF THE CONVENTION AREA SO AS TO SECURE MAXIMUM BENEFITS FOR THE PEOPLES OF THE COASTAL COUNTRIES AND FOR THE REGIONAL AS A WHOLE, INCLUDING, BUT NOT LIMITED TO COORDINATION AND HARMONIZATION OF FISHERIES POLICIES, APPLICATION OF AGREED PRINCIPLES AND MEASURES, AND ADOPTION OF A COORDINATED APPROACH IN NEGOTIATIONS WITH DISTANT WATER FISHING COUNTRIES.

ARTICLE II

THE CONTRACTING PARTIES RECOGNIZE THAT THE COASTAL STATE HAS SOVEREIGN RIGHTS FOR THE PURPOSE OF EXPLORING AND EXPLOITING, CONSERVING AND MANAGING THE LIVING RESOURCES, INCLUDING HIGHLY MIGRATORY SPECIES, WITHIN ITS EXCLUSIVE ECONOMIC OR FISHING ZONE WHICH MAY EXTEND TO 200 NAUTICAL MILES FROM THE BASELINES FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED.

ARTICLE III

THE AREA TO WHICH THIS CONVENTION SHALL APPLY, HEREINAFTER REFERRED TO AS THE "CONVENTION AREA", SHALL BE:
(A) ALL MARINE WATERS OF THE PACIFIC OCEAN OVER WHICH THE CONTRACTING PARTIES EXERCISE JURISDICTION OVER LIVING RESOURCES AS DEFINED IN THEIR RESPECTIVE NATIONAL
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LEGISLATIONS.

(B) ALL OTHER MARINE WATERS TO AND FROM WHICH LIVING RESOURCES OF THE AREA DEFINED IN SUBJ-PARAGRAPH (A) OF THIS ARTICLE MIGRATE.

ARTICLE IV

1. THE CONTRACTING PARTIES HEREBY AGREE TO ESTABLISH AND MAINTAIN AN AGENCY TO BE KNOWN AS THE SOUTH PACIFIC REGIONAL FISHERIES AGENCY, HEREINAFTER REFERRED TO AS THE "AGENCY".
2. THE AGENCY SHALL CARRY OUT THE FUNCTIONS SET FORTH IN THIS CONVENTION AS DIRECTED BY ITS GOVERNING BODY WHICH SHALL BE KNOWN AS THE SOUTH PACIFIC REGIONAL FISHERIES COMMISSION, HEREINAFTER REFERRED TO AS THE "COMMISSION".

ARTICLE V

1. THE CONTRACTING PARTIES RECOGNIZE THE ROLE OF THE SOUTH PACIFIC FORUM AS THE PRINCIPAL INSTRUMENT FOR COOPERATION IN MATTERS RELATING TO ECONOMIC DEVELOPMENT IN THE SOUTH PACIFIC REGION.

2. THE COMMISSION SHALL THEREFORE TAKE INTO ACCOUNT IN THE EXERCISE OF ITS FUNCTIONS AND IN PARTICULAR IN DIRECTING THE AGENCY IN ACCORDANCE WITH PARAGRAPH 2 OF ARTICLE IV OF THIS CONVENTION, ANY VIEWS COMMUNICATED TO IT BY THE SOUTH PACIFIC FORUM.

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FM AMEMBASSY SUVA

TO SECSTATE WASHDC IMMEDIATE 6630

UNCLAS SECTION 2 OF 7 SUVA 1317

ATTN: OES/OFA

ARTICLE VI

1. THE COMMISSION SHALL CONSIST OF REPRESENTATIVES OF THE CONTRACTING PARTIES WHO MAY BE ACCOMPANIED BY EXPERTS AND ADVISERS.
2. THE COMMISSION SHALL HOLD A REGULAR SESSION AT LEAST ONCE EVERY TWO YEARS. A SPECIAL SESSION MAY BE CALLED AT ANY TIME AT THE REQUEST OF ONE CONTRACTING PARTY PROVIDED THAT SUCH REQUEST IS SUPPORTED BY AT LEAST THREE OTHER CONTRACTING PARTIES.;
3. EACH CONTRACTING PARTY SHALL HAVE ONE VOTE IN THE COMMISSION. EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS CONVENTION, DECISIONS OF THE COMMISSION SHALL BE TAKEN BY A SIMPLE MAJORITY OF THE CONTRACTING PARTIES PRESENT AND VOTING. TWO-THIRDS OF THE CONTRACTING PARTIES SHALL CONSTITUTE A QUORUM.
4. AT EACH REGULAR SESSION THE COMMISSION SHALL ELECT A CHAIRMAN AND A VICE-CHAIRMAN FROM AMONG THE REPRESENTATIVES. THESE OFFICERS SHALL REMAIN IN OFFICE UNTIL THE ELECTION OF THEIR SUCCESSORS AT THE NEXT REGULAR SESSION AND SHALL NOT BE ELIGIBLE TO SERVE FOR MORE THAN TWO CONSECUTIVE TERMS IN

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THE SAME OFFICE.

5. THE WORKING LANGUAGE OF THE COMMISSION SHALL BE ENGLISH.

6. THE COMMISSION SHALL ADOPT SUCH RULES OF PROCEDURE AND OTHER INTERNAL ADMINISTRATIVE REGULATIONS AS ARE NECESSARY TO CARRY OUT THE FUNCTIONS OF THE AGENCY.

7. THE COMMISSION MAY ESTABLISH SUBSIDIARY BODIES WHO MAY ADOPT THEIR OWN RULES OF PROCEDURE WHICH SHALL HOWEVER ONLY ENTER INTO FORCE UPON APPROVAL BY THE COMMISSION.

8. THE COMMISSION MAY DELEGATE SPECIFIC FUNCTIONPSTO ITS SUBSIDIARY BODIES PROCIDED SUCH DELEGATION IS APPROVED BY A TWO-THIRDS MAJORITY OF THE CONTRACTING PARTIES PRESENT AND VOTING.

9. THE COMMISSION SHALL SUBMIT A REPORT ON ITS WORK AND THE WORK OF THE AGENCY WVERY TWO YEARS TO THE SOUTH PACIFIC FORUM, AND TO THE CONTRACTING PARTIES INDIVIDUALLY.

ARTICLE VII

1. THE AGENCY SHALL PROVIDE ALL NECESSARY SERVICES TO THE COMMISSION IN THE EXECUTION OF ITS FUNCTIONS.

2. THE AGENCY SHALL FURTHER BE GENERALLY RESPONSIBLE FOR

(A) THE STUDY OF THE LIVING RESOURCES IN THE CONVENTION AREA;

(B) THE COLLECTION, ANALYSIS, AND EVALUATION OF STATISITICAL AND OTHER BIOLOGICAL AND ECONOMIC INFORMATION RELATING TO THOSE RESOURCES, THEIR CONSERVATION AND UTILIZATION.

(C) ASSISTANCE TO THE CONTRACTING PARTIES IN THE DEVELOPMENT OF POLICIES AIMED AT SECURING MAXIMUM BENEFITS FROM THOSE RESOURCES FOR THE PEOPLES OF THE REGION;

(D) ASSISTANCE TO THE CONTRACTING PARTIES ON REQUEST IN NEGOTIATIONS WITH DISTANT WATER FISHING NATIONS AND OTHER EXTRA-REGIONAL INTERESTS;

(E) THE FACILITATION - WITHOUT DETRIMENT TO THE SOVEREIGN

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RIGHTS OF COASTAL COUNTRIES - OF A REGIONAL APPROACH TO MANAGEMENT AND TO LICENSING OF FISHERY ACTIVITIES INCLUDING AGREEMENT ON GENERALLY APPLICABLE POLICIES AND MEASURES, POOLING OF INFORMATION, AND STANDARDIZATION OF PROCEDURES AND FORMS;

(F) THE FACILITATION OF COLLABORATION AMONG COASTAL COUNTRIES AND OF COOPERATION BY OTHERS IN SURVEILLANCE AND ENFORCEMENT;

(G) PROVISION OF ADVICE ON NECESSARY CONSERVATION MEASURES INCLUDING THE NEED FOR INTERNATIONAL COLLABORATION IN

REGARD TO HIGHLY MIGRATORY SPECIES AS PROVIDED FOR IN
PARAGRAPH 3 OF ARTICLE VIII OF THIS CONVENTION;
(H) THE FURNISHING OF TECHNICAL ADVICE TO THE CON-
TRACTING PARTIES;
(I) THE EXECUTION ON BEHALF OF THE CONTRACTING PARTIES OF
ANY AGREED ACTIVITIES INCLUDING IN PARTICULAR THE COLLECTION OF
STATISTICAL AND OTHER DATA. THE ISSUE OF LICENSES, THE
COLLECTION OF FEES, THE CARRYING OUT OF INSPECTIONS AND THE
RECORDING OF ACTIVITIES OF FISHING VESSELS.

3. THE AGENCY MAY ALSO, TO THE EXTENT AUTHORIZED BY THE
COMMISSION, PROVIDE ASSISTANCE OF THE TYPE CONTEMPLATED IN
SUB-PARAGRAPHS (C), (D), (G) AND (H) OF THE PRECEDING PARAGRAPH
TO COUNTRIES IN THE REGION OTHER THAN CONTRACTING PARTIES.
4. THE AGENCY, IN CARRYING OUT ITS RESPONSIBILITIES SHALL,
INsofar AS FEASIBLE, UTILIZE THE TECHNICAL AND SCIENTIFIC
SERVICES OF, AND INFORMATION FROM, OFFICIAL AGENCIES OF THE
CONTRACTING PARTIES AND INTERNATIONAL ORGANIZATIONS. THE AGENCY
MAY, IN ADDITION, UTILIZE OTHER SERVICES AND INFORMATION.
5. THE CONTRACTING PARTIES SHALL FURNISH, ON THE REQUEST
OF THE AGENCY, ANY AVAILABLE STATISTICAL AND OTHER INFORMATION
THE AGENCY MAY NEED FOR THE PURPOSES OF THIS CONVENTION.

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FM AMEMBASSY SUVA
TO SECSTATE WASHDC IMMEDIATE 6631

UNCLAS SECTION 3 OF 7 SUVA 1317

ATTN: OES/OFA

ARTICLE VIII

1. THE AGENCY SHALL SEEK TO ESTABLISH AND MAINTAIN WORKING

ARRANGEMENTS WITH OTHER INTERNATIONAL ORGANIZATIONS WHICH HAVE RELATED OBJECTIVES, AND IN PARTICULAR WITH THE SOUTH PACIFIC COMMISSION, THE UNIVERSITY OF THE SOUTH PACIFIC, AND THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS, TO ENSURE EFFECTIVE COLLABORATION AND COORDINATION AND TO AVOID DUPLICATION WITH RESPECT TO THEIR WORK.

2. THE COMMISSION MAY INVITE ANY APPROPRIATE INTERNATIONAL ORGANIZATION AND ANY GOVERNMENT OR AUTHORITY ELIGIBLE TO BECOME A PARTY TO THIS CONVENTION UNDER ARTICLE XIV, BUT WHICH IS NOT A MEMBER OF THE COMMISSION, TO BE REPRESENTED IN AN OBSERVER CAPACITY AT SESSIONS OF THE COMMISSION OR ITS SUBSIDIARY BODIES.

3. THE AGENCY SHALL SEEK TO COLLABORATE WITH ALL GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS CONCERNED WITH THE STOCKS OF HIGHLY MIGRATORY SPECIES OCCURRING IN THE CONVENTION AREA WITH A VIEW TO ENSURING DIRECTLY OR THROUGH AN APPROPRIATE INTERNATIONAL ORGANIZATION CONSERVATION OF SUCH STOCKS AND

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TO PROMOTING THE OBJECTIVE OF OPTIMUM UTILIZATION OF SUCH SPECIES THROUGHOUT THE SEA AREA IN WHICH THEY OCCUR.

ARTICLE IV

1. THE COMMISSION SHALL APPOINT A DIRECTOR OF THE AGENCY ON SUCH CONDITIONS AS IT MAY DETERMINE.

2. THE STAFF OF THE AGENCY SHALL BE APPOINTED BY THE DIRECTOR IN ACCORDANCE WITH SUCH RULES AND ON SUCH CONDITIONS AS MAY BE DETERMINED BY THE COMMISSION.

3. THE DIRECTOR SHALL PERFORM SUCH FUNCTIONS AS THE COMMISSION MAY PRESCRIBE, INCLUDING BUT NOT LIMITED TO:

(A) RECEIVING AND TRANSMITTING THE COMMISSION'S OFFICIAL COMMUNICATIONS;

(B) PREPARING WORK PROGRAMMES AND BUDGET ESTIMATES FOR REVIEW BY THE COMMISSION AT ITS REGULAR SESSIONS;

(C) RECEIVING AND DISBURSING FUNDS OF THE AGENCY AND ACCOUNTING THEREFOR;

(D) ARRANGING FOR THE COLLECTION, ANALYSIS AND EVALUATION OF STATISTICAL AND OTHER INFORMATION;

(E) ARRANGING FOR THE FURNISHING TO THE CONTRACTING PARTIES AT THEIR REQUEST OF TECHNICAL ADVICE AND OF ASSISTANCE IN NEGOTIATIONS;

(F) PREPARING FOR SUBMISSION TO THE COMMISSION PROPOSALS RELATING TO THE FUNCTIONS OF THE AGENCY DESCRIBED IN SUB-PARAGRAPHS (E), (F) AND (G) OF PARAGRAPH 2 OF

ARTICLE VII;

(G) EXECUTING AGREED ACTIVITIES;

(H) PREPARING FOR SUBMISSION TO THE COMMISSION, AND FOR POSSIBLE SUBSEQUENT PUBLICATION, REPORTS ON MATTERS RELATED TO THE FUNCTIONS OF THE AGENCY AND FOR SUBMISSION AT ITS REGULAR SESSIONS A REPORT ON THE AGENCY'S

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(I) ARRANGING FOR ALL AGENCY PUBLICATIONS;
(J) ARRANGING FOR COOPERATION WITH GOVERNMENTS AND
INTERNATIONAL ORGANIZATIONS AS PROVIDED FOR
UNDER ARTICLE VIII.

ARTICLE X

1. THE EXPENDITURES OF THE AGENCY SHALL AS FAR AS POSSIBLE
BE FINANCED FROM INCOME ARISING FROM ITS ACTIVITIES UNDER SUB-
PARAGRAPH (I) OF PARAGRAPH 2 OF ARTICLE VII. ANY SHORTFALL
SHALL BE FINANCED FROM THE WORKING CAPITAL FUND ESTABLISHED
IN ACCORDANCE WITH PARAGRAPH 2.

2. THE COMMISSION SHALL ESTABLISH A WORKING CAPITAL FUND
TO FINANCE THE OPERATIONS OF THE AGENCY PRIOR TO RECEIVING
ADEQUATE INCOME AND FOR SUCH OTHER PURPOSES AS THE
COMMISSION MAY DETERMINE. THE COMMISSION SHALL FIX THE
LEVEL OF THE FUND, ASSESS ADVANCES NECESSARY FOR ITS ESTABLISH-
MENT AND MAINTENANCE, AND ADOPT REGULATIONS GOVERNING ITS USE.

3. AT EACH REGULAR SESSION THE COMMISSION SHALL ADOPT AN
EXPENDITURE BUDGET FOR THE AGENCY FOR THE FOLLOWING
FISCAL PERIOD. THE FISCAL PERIOD SHALL BE TWO YEARS. THE COM-
MISSION MAY REVISE THE CURRENT BUDGET IF REQUIRED AT ANY
SPECIAL SESSION.

4. INCOME IN EXCESS OF THAT REQUIRED TO COVER BUDGETED EX-
PENDITURE AND ANY NECESSARY REPLENISHMENT OF THE WORKING CAPITAL
FUND SHALL BE DISTRIBUTED AMONG THE CONTRACTING PARTIES IN
ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

5. ASSESSED ADVANCES TO THE WORKING CAPITAL FUND TO BE
PAID BY EACH CONTRACTING PARTY SHALL BE PAYABLE IN SUCH CURRENCY
OR CURRENCIES AND AT SUCH TIME AS THE COMMISSION SHALL DECIDE.

6. THE AGENCY MAY ACCEPT FROM ANY PRIVATE OR PUBLIC
SOURCES CONTRIBUTIONS FOR THE FURTHERANCE OF ITS OBJECTIVES.
SUCH CONTRIBUTIONS SHALL BE USED AND ADMINISTERED IN
ACCORDANCE WITH RULES TO BE ADOPTED BY THE COMMISSION.

GUM THE AGENCY SHALL ARRANGE FOR AN ANNUAL INDEPENDENT AUDIT
OF ITS ACCOUNTS TO BE MADE AND SUBMITTED FOR REVIEW BY THE

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COMMISSION.

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FM AMEMBASSY SUVA

TO SECSTATE WASHDC IMMEDIATE 6632

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ATTN: OES/OFA

ARTICLE XI

1. THE PERMANENT SEAT OF THE AGENCY SHALL BE IN HONIARA,
SOLOMON ISLANDS.

2. UNTIL THE COMMISSION DECIDES OTHERWISE THE AGENCY SHALL
HAVE ITS TEMPORARY SEAT IN CRONULLA, NEW SOUTH WALES, AUSTRALIA.

3. THE AGENCY SHALL HAVE INTERNATIONAL LEGAL PERSONALITY..
IT SHALL IN PARTICULAR HAVE CAPACITY TO CONTRACT, TO ACQUIRE
AND DISPOSE OF MOVABLE AND IMMOVABLE PROPERTY, TO SUE AND BE
SUED. IT SHALL ENJOY WITHIN THE TERRITORIES AND THE JURIS-
DICTION OF THE CONTRACTING PARTIES THE PRIVILEGES AND IMMUNITIES
NORMALLY GRANTED TO INTERGOVERNMENTAL ORGANIZATIONS AND
THEIR STAFFS.

ARTICLE XII

1. THE COMMISSION MAY MAKE RECOMMENDATIONS TO THE CONTRACT-
ING PARTIES RELATING TO THE OBJECTIVES OF THIS CONVENTION.

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2. ANY CONTRACTING PARTY MAY, WITHIN SIXTY DAYS OF NOTIFICATION
OF A RECOMMENDATION, PRESENT AN OBJECTION TO IT TO THE COM-
MISSION AND IN THAT EVENT SHALL NOT BE UNDER AN OBLIGATION TO

GIVE EFFECT TO THE RECOMMENDATION.

3. IF AN OBJECTION IS PRESENTED WITHIN THE SIXTY-DAY PERIOD REFERRED TO IN THE PRECEDING PARAGRAPH ANY OTHER CONTRACTING PARTY MAY PRESENT AN OBJECTION AT ANY TIME WITHIN A FURTHER PERIOD OF THIRTY DAYS.

4. IF OBJECTIONS TO A RECOMMENDATION ARE PRESENTED BY AT LEAST THREE CONTRACTING PARTIES ALL THE OTHER CONTRACTING PARTIES SHALL BE RELIEVED FORTHWITH OF ANY OBLIGATION TO GIVE EFFECT TO THAT RECOMMENDATION; NEVERTHELESS, ANY OR ALL OF THEM MAY AGREE AMONG THEMSELVES TO GIVE EFFECT TO IT.

5. ANY CONTRACTING PARTY WHICH HAS PRESENTED AN OBJECTION TO A RECOMMENDATION MAY AT ANY TIME WITHDRAW THAT OBJECTION AND SHALL THEN, SUBJECT TO THE PROVISIONS OF THE PRECEDING PARAGRAPH, GIVE EFFECT TO THE RECOMMENDATION WITHIN SIXTY DAYS.

6. SUBJECT TO THE PROVISIONS OF THIS ARTICLE, THE CONTRACTING PARTIES UNDERTAKE TO GIVE EFFECT TO ANY RECOMMENDATION ADOPTED BY THE COMMISSION IN ACCORDANCE WITH PARAGRAPH 1.

7. THE DIRECTOR OF THE AGENCY SHALL NOTIFY ALL CONTRACTING PARTIES PROMPTLY OF RECOMMENDATIONS ADOPTED BY THE COMMISSION, OF EACH OBJECTION AND OF EACH WITHDRAWAL OF AN OBJECTION, AND OF ENTRY INTO FORCE OF ANY RECOMMENDATION.

ARTICLE XIII

1. WITHOUT PREJUDICE TO THE RIGHTS OF STATES IN THE WATERS IN WHICH THEY ARE ENTITLED UNDER INTERNATIONAL LAW TO EXERCISE JURISDICTION OVER FISHERIES, EACH CONTRACTING PARTY SHALL TAKE APPROPRIATE MEASURES, IN ITS TERRITORIES AND IN THESE WATERS WITH RESPECT TO ALL PERSONS AND VESSELS, AND BEYOND THESE WATERS WITH RESPECT TO ITS NATIONALS AND VESSELS, TO ENSURE THE UNCLASSIFIED

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IMPLEMENTATION OF THE PROVISIONS OF THE PRESENT CONVENTION AND THE RECOMMENDATIONS OF THE COMMISSION TO WHICH THAT CONTRACTING PARTY HAS UNDERTAKEN TO GIVE EFFECT, AND TO APPLY SANCTIONS FOR THE VIOLATION OF SUCH PROVISIONS AND RECOMMENDATIONS.

2. THE CONTRACTING PARTIES UNDERTAKE TO COLLABORATE WITH EACH OTHER WITH A VIEW TO THE ADOPTION OF EFFECTIVE MEASURES TO ENSURE THE IMPLEMENTATION OF THIS CONVENTION AND THE ACHIEVEMENT OF ITS OBJECTIVES.

3. THE CONTRACTING PARTIES SHALL TRANSMIT TO THE AGENCY BIENNIALY, OR AT SUCH TIMES AS MAY BE AGREED BY THE COMMISSION, A STATEMENT OF THE ACTION THAT THEY HAVE TAKEN PURSUANT TO THIS ARTICLE.

ARTICLE XIV

1. THIS CONVENTION SHALL BE OPEN FOR SIGNATURE BY
(A) ANY GOVERNMENT THAT IS OR BECOMES A MEMBER OF THE SOUTH PACIFIC FORUM AND

(B) ANY GOVERNMENT RESPONSIBLE FOR THE ADMINISTRATION OF ANY COASTAL TERRITORY IN THE SOUTH PACIFIC WITH RESPECT TO SUCH COASTAL TERRITORY.

2. SIGNATURE OF THIS CONVENTION SHALL BE SUBJECT TO RATIFICATION, ACCEPTANCE OR APPROVAL.

3. ANY GOVERNMENT SIGNING THE CONVENTION UNDER SUB-PARAGRAPH (B) OF PARAGRAPH 1 SHALL DESIGNATE AN AUTHORITY IN THE TERRITORY IN RESPECT TO WHICH IT IS SIGNING THE CONVENTION, WHICH AUTHORITY SHALL HAVE FULL POWERS TO ACT FOR THE GOVERNMENT IN RESPECT TO THE SAID TERRITORY IN THE MATTERS COVERED BY THIS CONVENTION AND SHALL HAVE THE STATUS OF A CONTRACTING PARTY.#

4. INSTRUMENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL SHALL BE DEPOSITED WITH THE DIRECTOR, SOUTH PACIFIC BUREAU FOR ECONOMIC COOPERATION, HEREINAFTER REFERRED TO AS THE "DEPOSITARY".

5. RATIFICATION, ACCEPTANCE OR APPROVAL MAY NOT BE MADE SUBJECT TO ANY RESERVATION.

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FM AMEMBASSY SUVA

TO SECSTATE WASHDC IMMEDIATE 6633

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ATTN: OES/OFA

ARTICLE XV

1. THIS CONVENTION SHALL ENTER INTO FORCE ON THE THIRTIETH DAY FOLLOWING THE DEPOSIT OF AT LEAST SIX INSTRUMENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL.
2. AFTER THE ENTRY INTO FORCE OF THIS CONVENTION IN ACCORDANCE WITH PARAGRAPH 1 OF THIS ARTICLE, THE CONVENTION SHALL ENTER INTO FORCE FOR EACH COUNTRY IN RESPECT OF WHICH A GOVERNMENT DEPOSITS AN INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL ON THE THIRTIETH DAY FOLLOWING THE DATE ON WHICH SUCH INSTRUMENT IS RECEIVED BY THE DEPOSITARY.

ARTICLE XVI

1. ANY CONTRACTING PARTY MAY PROPOSE AMENDMENTS TO THIS CONVENTION WHICH SHALL BE REFERRED TO THE COMMISSION FOR APPROVAL AT A REGULAR OR SPECIAL SESSION. SUCH APPROVAL SHALL BE SUBJECT TO CONFIRMATION BY THE SOUTH PACIFIC FORUM. PROPOSALS FOR THE AMENDMENT OF THE CONVENTION SHALL BE COMMUNICATED TO THE DEPOSITARY.

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- DEPOSITARY WHO SHALL INFORM THE CONTRACTING PARTIES THEREOF.
- ANY AMENDMENT SHALL TAKE EFFECT FOR EACH CONTRACTING PARTY ACCEPTING THE AMENDMENT ON THE DAY AFTER ITS ACCEPTANCE BY THREE-FOURTHS OF THE CONTRACTING PARTIES AND THEREAFTER FOR EACH REMAINING CONTRACTING PARTY ON THE DAY ON WHICH THE DEPOSITARY RECEIVES THE NOTIFICATION OF SUCH ACCEPTANCE.
2. ANY COUNTRY WHICH BECOMES A CONTRACTING PARTY AFTER AN AMENDMENT TO THIS CONVENTION HAS BEEN PROPOSED FOR ACCEPTANCE PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL BE BOUND BY THE CONVENTION AS AMENDED WHEN THE SAID AMENDMENT COMES INTO FORCE.

ARTICLE XVII

AT ANY TIME AFTER THREE YEARS FROM THE DATE OF ENTRY INTO FORCE OF THIS CONVENTION, ANY CONTRACTING PARTY MAY WITHDRAW FROM THE CONVENTION BY GIVING WRITTEN NOTIFICATION OF WITHDRAWAL. WITHDRAWAL SHALL TAKE EFFECT ON DECEMBER THIRTY-FIRST OF THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH NOTIFICATION OF WITHDRAWAL WAS COMMUNICATED TO THE DEPOSITARY.

ARTICLE XVIII

1. THE DEPOSITARY SHALL INFORM THE GOVERNMENTS OF THE STATES REFERRED TO IN PARAGRAPH 1 AND THE AUTHORITIES REFERRED TO IN PARAGRAPH 3 OF ARTICLE XIV:
 - (A) OF THE SIGNATURE OF THIS CONVENTION AND OF THE DEPOSIT

OF INSTRUMENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL IN
ACCORDANCE WITH ARTICL XIV;
(B) OF THE DATE ON WHICH THE CONVENTION WILL COME INTO FORCE IN
ACCORDANCE WITH PARAGRAPH 1 OF ARTICLE XV.
2. THE DEPOSITARY SHALL INFORM ALL CONTRACTING PARTIES:
(A) OF PROPOSALS FOR THE AMENDMENT OF THE CONVENTION,
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NOTIFICATION O ACCEPTANCE OF SUCH AMENDMENTS AND THE
ENTRY INTO FORCE OF AMENDMENTS, IN ACCORDANCE WITH
ARTICLE XVI;
(B) OF NOTOFICATION OF WITHDRAWL MADE IN ACCORDANCE WITH
ARTICLE XVII.
3. THE ORIGINAL OF THIS CONVENTION SHALL BE DEPOSITED WITH
THE DEPOSITARY WHO SHALL SEND CERTIFIED COPIES THEREOF TO THE
GOVERNMENTS OF THE STATES REFERRED TO IN PARAGRAPH 1 AND
THE AUTHORITIES REFERRED TO IN PARAGRAPH 3 OF ARTICLE XIV.

ARTICLE XIX

1. ANY DISPUTE BETWEEN THE CONTRACTING PARTIES RELATING TO
THE INTERPRETATION OR APPLICATION OF THIS CONVENTION SHALL,
AT THE REQUEST OF ANY PRTY TO THE DISPUTE, BE SUBMITTED TO
ARBITRATION IN ACCORDAANCW TIH THE PROVIVISIONS OF THE ANNEX
TO THIS CONVENTION.
THIS ANNEX FORMS AN INTEGRAL PART OF THE CONVENTION.
2. ANY DECISION RENDERED OR MEASURE PRESCRIBED BY AN ARBITRAL
TRIBUNAL CONSTITUTED IN ACCORDANCE WITH THESE
PROVISIONS SHALL BE FINAL AND SHALL BE COMPLIED WITH BY ALL
THE PARTIES TO THE DISPUTE.
3. ANY SUCH DECISION OR MEASURE SHALL HAVE NO BINDING FORCE
EXCEPT BETWEEN THE PARTIES AND IN RESPECT OF THAT
PARTICULAR DISPUTE.

DONE ATTHIS.....OF.....ONE
THOUSAND NINE HUNDRED AND SEVENTY....., IN A SINGLE COPY
IN THE ENGLISH LANGUAGE.

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ACTION OES-07

INFO OCT-01 EA-12 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DLOS-09 DODE-00
DOTE-00 EB-08 EPA-04 ERDA-07 FMC-02 TRSE-00 H-02
INR-07 INT-05 IO-14 JUSE-00 L-03 NSAE-00 NSF-02
OMB-01 PA-02 PM-05 PRS-01 SP-02 SS-15 NSCE-00
SSO-00 USIE-00 INRE-00 FEA-01 AF-10 ARA-14 EUR-12
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FM AMEMBASSY SUVA

TO SECSTATE WASHDC IMMEDIATE 6634

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ATTN: OES/OFA

ARBITRATION (ANNEX)

ARTICLE I

INSTITUTION OF PROCEEDINGS

SUBJECT TO THE PROVISION OF ARTICLE XIX OF THE CONVENTION,
ANY PARTY TO A DISPUTE MAY SUBMIT THE DISPUTE TO THE
ARBITRATION PROCEDURE PROVIDED FOR IN THIS ANNEX BY NOTIFICA-
TION ADDRESSED TO THE OTHER PARTY OR PARTIES AND TO THE
DIRECTOR OF THE AGENCY. THE NOTIFICATION SHALL INCLUDE A
STATEMENT OF THE CLAIM MADE BY THE PARTY AND THE GROUNDS ON
WHICH SUCH CLAIM IS BASED.

FOR THE PURPOSE OF PROCEEDINGS UNDER THIS ANNEX, THE
ARBITRAL TRIBUNAL SHALL, INLESS THE PARTIES OTHERWISE AGREE,
BE CONSTITUTED AS FOLLOWS:

1. SUBJECT TO THE PROVISION OF PARAGRAPH 6, THE ARBITRAL
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TRIBUNAL SHALL CONSIST OF FIVE MEMBERS WHO SHALL BE PERSONS
EXPERIENCED IN FISHERY MATTERS AND ENJOYING THE HIGHEST
REPUTATION FOR FAIRNESS COMPETENCE AND INTEGRITY. EACH PARTY
TO THE DISPUTE SHALL APPOINT ONE MEMBER. IN THE CASE OF THE
PARTY REQUESTING ARBITRATION, SUCH APPOINTMENT SHALL BE MADE
AT THE TIME OF THE REQUEST. THE OTHER THREE MEMBERS SHALL BE
APPOINTED BY AGREEMENT OF THE PARTIES. THE PARTIES TO THE
DISPUTE SHALL APPOINT THE PRESIDENT OF THE ARBITRAL TRIBUNAL
FROM AMONG THESE THREE MEMBERS. THE DIRECTOR OF THE AGENCY
SHALL BE PROMPTLY INFORMED OF ALL APPOINTMENTS.

2. SHOULD THE OTHER PARTY TO THE DISPUTE FAIL TO APPOINT

A MEMBER WITHIN A PERIOD OF 30 DAYS FROM THE DATE OF RECEIPT OF THE NOTIFICATION, THE APPOINTMENT SHALL BE MADE IN ACCORDANCE WITH PARAGRAPH 4, AT THE REQUEST OF THE PARTY WHICH SUBMITTED THE DISPUTE TO ARBITRATORS. SUCH REQUEST SHALL BE MADE WITHIN 15 DAYS OF THE EXPIRY OF THE AFOREMENTIONED PERIOD OF 30 DAYS.

3. IF, WITHIN A PERIOD OF 60 DAYS FROM THE DATE OF RECEIPT OF THE NOTIFICATION, THE PARTIES HAVE NOT REACHED AGREEMENT ON THE APPOINTMENT OF ONE OR MORE OF THE MEMBERS OF THE TRIBUNAL TO BE DESIGNATED JOINTLY, OR ON THE APPOINTMENT OF THE PRESIDENT, THE REMAINING APPOINTMENT OR APPOINTMENTS SHALL BE MADE IN ACCORDANCE WITH PARAGRAPH 4, AT THE REQUEST OF A PARTY TO THE DISPUTE ADDRESSED TO THE DIRECTOR OF THE AGENCY. SUCH REQUEST SHALL BE MADE WITHIN 15 DAYS OF THE EXPIRY OF THE AFOREMENTIONED PERIOD OF 60 DAYS.

4. UNLESS THE PARTIES AGREE THAT ANY APPOINTMENT UNDER PARAGRAPHS 2 AND 3 BE MADE BY SOME PERSON CHOSEN BY THE PARTIES, THE SECRETARY-GENERAL OF THE INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA SHALL MAKE SUCH APPOINTMENT. IF THE SECRETARY-GENERAL IS UNABLE TO ACT UNDER THIS PARAGRAPH, OR IS A NATIONAL OF ONE OF THE PARTIES TO THE DISPUTE, THE APPOINTMENT SHALL BE MADE BY THE CHAIRMAN OF THE

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FISHERIES RESEARCH BOARD OF CANADA. THE APPOINTMENTS REFERRED TO IN THIS PARAGRAPH SHALL BE MADE WITHIN A PERIOD OF 30 DAYS OF THE RECEIPT OF THE REQUEST AND IN CONSULTATION WITH THE PARTIES. THE MEMBERS SO APPOINTED MUST BE OF DIFFERENT NATIONALITIES AND MUST NOT BE IN THE SERVICE OF, ORDINARILY RESIDENT IN THE TERRITORY OF, OR NATIONALS OF, ANY OF THE PARTIES TO THE DISPUTE.

5. VACANCIES WHICH MAY OCCUR AS A RESULT OF DEATH, RESIGNATION OR ANY OTHER CAUSE SHALL BE FILLED IN SUCH MANNER AS PROVIDED FOR ORIGINAL APPOINTMENTS.

6. PARTIES IN THE SAME INTEREST SHALL APPOINT ONE MEMBER OF THE TRIBUNAL JOINTLY BY AGREEMENT. WHERE THERE ARE SEVERAL PARTIES HAVING SEPARATE INTERESTS OR WHERE THERE IS DISAGREEMENT AS TO WHETHER THEY ARE OF THE SAME INTEREST, EACH OF THEM SHALL APPOINT ONE MEMBER OF THE TRIBUNAL, THE NUMBER OF MEMBERS OF THE TRIBUNAL APPOINTED SEPARATELY BY THE PARTIES SHALL ALWAYS BE SMALLER BY ONE THAN THE NUMBER OF MEMBERS OF THE TRIBUNAL TO BE APPOINTED JOINTLY BY THE PARTIES.

7. IN DISPUTES INVOLVING MORE THAN TWO PARTIES, THE PROVISIONS OF PARAGRAPHS 1 TO 5 SHALL APPLY TO THE MAXIMUM EXTENT POSSIBLE.

ARTICLE 3

AN ARBITRAL TRIBUNAL CONSTITUTED UNDER ARTICLE 2 SHALL FUNCTION IN ACCORDANCE WITH THE PROVISIONS OF THE PRESENT CONVENTION AND OF THIS ANNEX.

ARTICLE 4

IN THE ABSENCE OF AN AGREEMENT TO THE CONTRARY BETWEEN THE PARTIES TO THE DISPUTE, THE ARBITRAL TRIBUNAL SHALL LAY DOWN ITS OWN PROCEDURE ASSURING TO EACH PARTY A FULL OPPORTUNITY TO BE HEARD AND TO PRESENT ITS CASE,,))

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ARTICLE 5

THE PARTIES TO THE DISPUTE SHALL FACILITATE THE WORK OF THE ARBITRAL TRIBUNAL AND, IN PARTICULAR, IN ACCORDANCE WITH THEIR LAW AND USING ALL MEANS AT THEIR DISPOSAL, SHALL;
(A) PROVIDE THE TRIBUNAL WITH ALL RELEVANT DOCUMENTS, FACILITIES AND INFORMATION; AND
(B) ENABLE THE TRIBUNAL WHEN NECESSARY TO SUMMON AND RECEIVE THE EVIDENCE OF WITNESSES OR EXPERTS AND TO VISIT THE LOCALITIES IN QUESTION.

ARTICLE 6

UNLESS THE ARBITRAL TRIBUNAL DETERMINES OTHERWISE BECAUSE OF THE PARTICULAR CIRCUMSTANCES OF THE CASE, THE EXPESNES OF THE TRIBUNAL, INCLUDING THE REMUNERATION OF ITS MEMBERS, SHALL BE FORNE BY THE PARTIES TO THE DISPUTE IN EQUAL SHARES.

ARTICLE 7
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DECISION OF THE ARBITRAL TRIBUNAL SHALL BE TAKEN BY A MAJORITY VOTE OF ITS MEMBERS. THE ABSENCE OR ABSTENTION OF LESS THAN HALF OF THE MEMBERS SHALL NOT CONSTITUTE AN IMPEDIMENT TO THE TRIBUNAL REACHING A DECISION. IN THE EVENT OF AN EQUALITY OF VOTES, THE PRESIDENT SHALL HAVE A CASTING VOTE.

ARTICLE 8

WHEN ONE OF THE PARTIES TO THE DISPUTE DOES NOT APPEAR BEFORE THE ARBITRAL TRIBUNAL OR FAILS TO DEFEND ITS CASE, THE OTHER PARTY MAY REQUEST THE TRIBUNAL TO CONTINUE THE PROCEEDINGS AND TO MAKE ITS AWARE. ABSENCE OR DEFAULT OF A PARTY SHALL NOT CONSTITUTE AN IMPEDIMENT TO THE PROCEEDINGS. BEFORE MAKING ITS AWARE, THE ARBITRAL TRIBUNAL MUST SATISFY ITSELF NOT ONLY THAT IT HAS JURISDICTION OVER THE DISPUTE BUT ALSO THAT THE AWARE IS WELL FOUNDED IN FACT AND LAW.

ARTICLE 9

THE AWARE OF THE ARBITRAL TRIBUNAL SHALL BE CONFINED TO THE SUBJECT-MATTER OF THE DISPUTE, AND STATE THE REASONS ON WHICH IT IS BASED. IT SHALL CONTAIN THE NAMES OF THE MEMBERS WHO HAVE PARTICIPATED AND THE DATE OF THE AWARD. ANY MEMBERS OF THE TRIBUNAL MAY ATTACH A SEPARATE DISSENTING OPINION TO THE AWARD. THE AWARD SHALL BE COMMUNICATED TO THE DIRECTOR OF THE AGENCY WHO MAY PUBLISH THE AWARD UNLESS ANY OF THE PARTIES TO THE DISPUTE INFORMS HIM OF AN OBJECTION.

ARTICLE 10

1. THE AWARD SHALL BE FINAL AND WITHOUT APPEAL, UNLESS THE PARTIES TO THE DISPUTE HAVE AGREED IN ADVANCE TO AN APPELLATE
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PROCEDURE. IT SHALL BE COMPLIED WITH BY ALL THE PARTIES TO THE DISPUTE.

ARTICLE 11

1. ANY CONTROVERSY WHICH MAY ARISE BETWEEN THE PARTIES TO THE DISPUTE AS REGARDS THE INTERPRETATION OR MANNER OF IMPLEMENTATION OF THE AWARD MAY BE SUBMITTED BY EITHER PARTY FOR

DECISION TO THE ARBITRAL TRIBUNAL WHICH MADE THE AWARD.
FOR THIS PURPOSE, ANY VACANCY IN THE TRIBUNAL SHALL BE FILLED
IN THE MANNER PROVIDED FOR IN THE ORIGINAL APPOINTMENTS OF THE
MEMBERS OF THE TRIBUNAL.

2. ANY SUCH CONTROVERSY MAY BE SUBMITTED TO ANOTHER COURT
OR TRIBUNAL BY AGREEMENT OF ALL THE PARTIES TO THE DISPUTE.

ARTICLE 12

THE PROVISIONS OF THIS ANNEX SHALL APPLY MUTATIS
MUTANDIS TO ANY DISPUTE INVOLVING ENTITIES OTHER THAN
CONTRACTING PARTIES.

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Message Attributes

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